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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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03 April 2024

CUSTOMS MEMORANDUM CIRCULAR
NO. 65-2024

TO : ASSISTANT COMMISSIONER
ALL DEPUTY COMMISSIONERS
ALL DIRECTORS AND DIVISION CHIEFS
ALL DISTRICT AND SUB-PORT COLLECTORS
ALL OTHERS CONCERNED

SUBJECT : TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling (TCC DR) No. 22-044 issued on 27 March 2024 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "Shaft," from Switzerland consigned to ABB, Incorporated, (Import Entry/ Customs Reference No. C-80799, Ninoy Aquino International Airport), the dispositive portion of which states that:

"WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2022 MFN Rate	2022 PH-EFTA FTA (CHE/LIE) Rate*
"SHAFT"	8414.90.90.200	5% ad valorem	Zero

**Subject to submission of an Origin Declaration*

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.

For strict compliance.

BIENVENIDO Y. RUBIO
Commissioner

APR 19 2024



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09-47622

REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "SHAFT", CONSIGNED TO
ABB, INCORPORATED

TCC (DR) NO. 22-044

(Import Entry/Customs Reference No. C-80799,
BOC-NAIA)

Issued on: 27 March 2024

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for a Tariff Classification Dispute Ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), on the shipment of Shaft, imported by ABB, Incorporated (Importer/Consignee) from Switzerland. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 15 December 2022.

The shipment of said subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 8411.99.00, with a Most Favoured Nation (MFN) rate of duty of 3% *ad valorem*, was processed under Import Entry/Customs Reference No. C-80799 at the Bureau of Customs (BOC), Ninoy Aquino International Airport (NAIA). The BOC contested the declared heading and reclassified subject article under AHTN 2017 subheading 8414.90.90B (or AHTN 2022 subheading 8414.90.90.200), with an MFN rate of duty of 5% *ad valorem*.

Hence, this request for TCDR.

While evaluating the submissions from the Importer/Consignee, the Commission determined that additional information was needed to properly classify the subject article. Hence, on 27 January 2023, the Commission requested the Importer/Consignee to submit the following additional information:

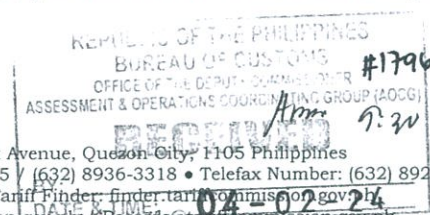
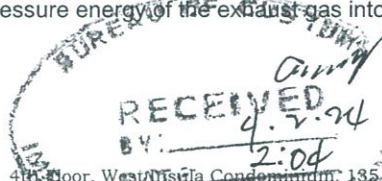
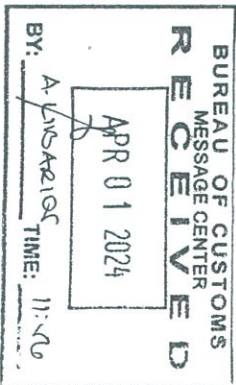
- a) use/function of the turbo charger machine in which the subject part is intended/designed to be installed;
- b) use/function of the subject part requested for ruling; and
- c) dimensions of the part (in mm).

On 01 February 2023, the Commission received the requested information via an electronic mail (email) from Mr. German Villafuerte, Senior Manager and Head of Operations of ABB, Incorporated.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 25 July 2023 for comments on the request for TCDR on Shaft. However, to this date, the Commission has not received any comment from the BOC-NAIA, hence, it proceeded to evaluate the classification of subject article based on the submissions received from the Importer/Consignee.

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending disputes in tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee were sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted technical specifications and photograph of the product, it is established that subject article is a metal shaft with turbine blades. It has an overall diameter of 330 mm and length of 320 mm. It is an internal key component of a turbocharger that converts pressure energy of the exhaust gas into velocity to drive the turbine of the turbocharger.



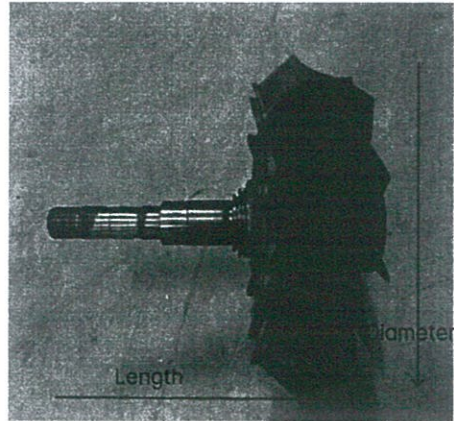
APR 2024

Handwritten initials 'C/P' with an arrow pointing to the right.

The turbocharger is a turbomachine consisting of two major parts - the turbine and the compressor, mounted on a common shaft. The exhaust gases from the diesel or gas engine flow through the turbine casing and the nozzle ring to impinge on the turbine. The bladed shaft/turbine shaft uses the energy contained in the exhaust gas to drive the compressor wheel. The compressor draws in the fresh air, compresses it, and then forces it into the engine's cylinders to produce more power for a given displacement.

Below is a photograph of the product submitted by the Importer/Consignee to the Commission:

Turbine Shaft
Diameter 330mm, Length 320mm



The Importer/Consignee classified subject article under parts of heading 84.11 of the AHTN 2022 which covers *turbo-jets, turbo-propellers and other gas turbines*. The pertinent Harmonized System (HS) Explanatory Notes (EN) for this heading state that:

"This heading covers turbo-jets, turbo-propellers and other gas turbines.

The turbo-jets, turbo-propellers and other gas turbines of this heading are, in general, gas turbine engines, which are internal combustion engines and do not usually require any external source of heat as does, for example, a steam turbine [emphasis added].

x x x

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the engines and motors of this heading are also classified here (e.g., gas turbine rotors, combustion chambers and vents for jet engines, parts of turbo-jet engines (stator rings, with or without blades, rotor discs or wheels, with or without fins, blades and fins), fuel feed regulators, fuel nozzles) [emphasis added]."

On the other hand, the BOC considered classification of subject article under heading 84.14 of the AHTN 2017/2022 which covers, among others, *air or vacuum pumps, air or other gas compressors and fans*. The pertinent HS EN for this heading state that:

"This heading covers machines and appliances, hand-operated or power driven, for the compression of air or other gases, or for creating a vacuum, and also machines for circulating air or other gases.

(A) PUMPS AND COMPRESSORS

In general, air pumps, vacuum pumps and compressors function on the same principles as and are broadly of similar construction to the liquid pumps (piston, rotary, centrifugal or ejector pumps) described under the preceding heading.

In addition, however, there are certain special types, particularly for producing high vacua, such as diffusion pumps (the pump fluid being oil or mercury), molecular pumps and entrapment pumps (getter pumps, cryopumps). Diffusion pumps, however, are sometimes made of glass, in which case they are excluded (Chapter 70).

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Air and vacuum pumps serve many purposes : for facilitating boiling, distilling or evaporating at reduced pressure; for evacuating electric lamps or tubes, vacuum flasks, etc. Air pumps serve for pumping air at pressure (e.g., for inflating pneumatic tyres).

Unlike liquid pumps, air or other gas compressors (other than low pressure or intermittent working compressors) are water-cooled or have fins or other means for air cooling (surface cooling) to dissipate the considerable heat of compression which is generated.

*There are several types of compressors, for example, reciprocating piston, centrifugal, axial and rotary compressors. **A special type of compressor is the exhaust-gas turbocharger used in internal-combustion piston engines to increase power output** [emphasis added].*

x x x

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the goods of this heading are also classified here (e.g., pump or compressor bodies, blades, rotors or impellers, vanes and pistons) [emphasis added]."

It should be noted that both of the HS EN mentioned above provide guidance on the classification of parts of the machines and devices of the aforementioned headings (i.e., 84.11 and 84.14) by referring to the general provisions regarding the classification of parts, which is Note 2 to Section XVI.

Note 2 to Section XVI of the AHTN 2022 states that:

"Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules :

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17, and parts which are suitable for use solely or principally with the goods of heading 85.24 are to be classified in heading 85.29;

(c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48."

In addition, the General EN to Section XVI for Parts state that:

"In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for :

(A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09).

(B) Parts of the machinery of headings 84.25 to 84.30 (heading 84.31).

(C) Parts of the textile machines of headings 84.44 to 84.47 (heading 84.48).

(D) Parts of the machines of headings 84.56 to 84.65 (heading 84.66).

(E) Parts of the office machines of headings 84.70 to 84.72 (heading 84.73).

(F) Parts of the machines of heading 85.01 or 85.02 (heading 85.03).

(G) Parts of apparatus of headings 85.19 or 85.21 (heading 85.22).

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(H) Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).

(I) Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38) [emphasis added].

The above rules do not apply to parts which in themselves constitute an article covered by a heading of this Section (other than headings 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to :

(1) Pumps and compressors (headings 84.13 and 84.14) [emphasis added].

x x x"

By reference to Note 2 to Section XVI and the HS EN to heading 84.14, the Commission has determined that the turbocharger where subject article is a part of is an exhaust-gas turbocharger (a special type of compressor) of heading 84.14, and not a gas turbine engine of heading 84.11. Hence, subject shaft, being a component or part of an exhaust-gas turbocharger, is more appropriately covered under parts of heading 84.14 of the AHTN 2022.

Based on the information received from the Importer/Consignee, and the clarifications provided by the foregoing Section Note, HS General EN, and HS EN, subject article is properly classified under AHTN 2022 subheading 8414.90.90.200 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2022 MFN Rate	2022 PH-EFTA FTA (CHE/LIE) Rate*
Shaft	8414.90.90.200	5% ad valorem	Zero

*Subject to submission of an Origin Declaration

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

Digitally signed


MARILOU P. MENDOZA
 Chairperson

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